

In re application of
Gregory M. Fahy
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Atty. Dkt. No. CentMed.020A
(074066-0104)

REMARKS

Courtesies extended to Applicant's representative during the telephone conference held on October 19, 2004, are acknowledged with appreciation.

In accordance with the present invention, there are provided novel solutions useful for the introduction and washout of vitrifiable concentrations of cryoprotectants in a cell, tissue or organ, and methods for the use thereof. Invention solutions comprise carrier solutions comprising at least mannitol and lactose, optionally containing one or more of:

- vitrifiable concentrations of cryoprotectant,
- polymers selected from polyglycerol, polyvinylpyrrolidone, polyvinyl alcohol, and a copolymer of vinyl alcohol and vinyl acetate,
- glucose,
- bicarbonate,
- as well as additional components such as phosphates, alkali halides, alkaline earth halides, purines, and the like.

By the present communication, claims 3, 4, 6, 10, 13, 15, 22, 25, 26, 30, 32 and 36, have been amended to define Applicant's invention with greater particularity. In view of the amendments submitted herewith, claims 1, 2, 7, 8, 9, 19-21, 27-29, 31, 33-35 and 37 have been cancelled without prejudice, subject to Applicant's right to file further application(s) directed to the subject matter thereof. In view of the amendments submitted herewith, far fewer claims are now presented for prosecution than were pending before the present communication.

No new matter has been introduced by the subject amendments as all amended claim language is fully supported by the specification and original claims. The amendments provided herewith are submitted to place the present claims in condition for allowance, or at a minimum, in better condition for appeal. Accordingly, entry of the amendments submitted herewith is respectfully requested.

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Indeed, each of claims 3, 4, 6, 10, 13, 15, 22, 25, 26, 30, 32 and 36 (which are indicated to be allowable at page 4 of the Office Action) have either been re-written in independent form, incorporating all of the requirements of any intervening claims (i.e., claims 3, 4, 6, 10, 13, 15, 22, 25, 26, 30 and 36), or they depend from a claim so amended (i.e., claim 32). Accordingly, each of these claims are submitted to be in condition for allowance.

In view of the amendments submitted herewith, claims 3, 4, 6, 10, 13, 15, 22, 25, 26, 30, 32 and 36 remain pending. The present status of all claims in this application is provided in the Listing of Claims presented herein beginning on page 2 of this communication.

Election/Restrictions

The withdrawal of claim 37 from consideration is acknowledged. To reduce the issues and facilitate prosecution, claim 37 has been cancelled.

Claim Rejections—35 USC § 112

New Matter

The rejection of claim 7 under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention, is respectfully traversed, and has been rendered moot by the amendments submitted herewith, canceling this claim.

Indefinite

The rejection of claims 27-29 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite, is respectfully traversed, and has been rendered moot by the amendments submitted herewith, canceling these claims.

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Claim Rejections—35 U.S.C. § 102

The rejection of claims 1, 2, 7 and 19 under 35 U.S.C § 102(b) as allegedly being anticipated by JP 1-106826 is respectfully traversed. In order to reduce the issues and expedite prosecution, this rejection has been rendered moot by the cancellation of these claims without prejudice.

Allowable claims

The indication that claims 3, 4, 6, 10, 13, 15, 20-22, 25, 26 and 30-36 are allowable is acknowledged with appreciation. Each of the claims so acknowledged have either been re-written in independent form, incorporating all of the requirements of any intervening claims, or they depend from a claim so amended. Accordingly, each of these claims are submitted to be in condition for allowance.

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Conclusion

In view of the above amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Accordingly, reconsideration and favorable action on all claims are respectfully requested. Should any issues remain to be resolved in view of the present communication, the Examiner is encouraged to contact the undersigned at the telephone number listed below so that a prompt disposition of the present application can be achieved.

Respectfully submitted,

Date: October 21, 2004

By: 

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6711
Facsimile: (858) 792-6773

Stephen E. Reiter
Attorney for Applicant
Registration No. 31,192